

(1)

wp11106.16

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11106 OF 2016

Shiva Trust's Supriyadidi Sule College of Nursing .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

WITH

WRIT PETITION NO. 11108 OF 2016

Shiva Trust's Shruti Nursing School .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

Mr.V.D. Hon, Sr. Counsel i/b. Mr.A.D. Shinde, Advocate for the petitioner.

Mr.Alok Sharma, Advocate for respondent No.1 in both petitions.

Mr.C.A. Jadhav, Advocate for respondent No.2 in both petitions.

Mr.K.M. Suryawanshi, Advocate for respondent No.3 in W.P. No. 11106 of 2019.

**CORAM : A.M. BADAR,
VACATION JUDGE**

DATED : 11.11.2016

P.C. :-

1. Heard learned Sr. Counsel appearing for petitioners in both these petitions. It is seen that

Shruti Nursing School run by the petitioner-trust was permitted to conduct two courses, namely, R.A.N.M. and R.G.N.M. from the year 2011-12. Another college run by the trust, namely, Supriyadidi Sule College of Nursing was permitted to run two courses i.e. B.Sc. (Nursing) and Post-B.Sc.(Nursing) from the year 2012-13. It is argued that the State Government has granted Essentiality Certificate for the courses run by colleges of the petitioner-trust and consequently the Maharashtra Nursing Council has granted recognition as well as affiliation to colleges run by the petitioner-trust, as per provision of Sections 25 and 26 of the Maharashtra Nurses Act, 1966. Petitioners have placed on record necessary documents to demonstrate issuance of Essentiality Certificate as well as permission to start nursing courses granted by the Maharashtra Nursing Council.

2. On this backdrop it is also seen that the Indian Nursing Council had issued Suitability Certificate to colleges run by the petitioner-trust imparting education in nursing courses from inception i.e. 2011-12 and 2012-13 respectively as colleges of the petitioner-trust are reported to be admitting students in respective courses till this academic sessions.

3. The controversy involved in these petitions

arose because of a surprise inspection of Shruti Nursing School and Supriyadidi Sule College of Nursing, run by the petitioner-trust. On 20.02.2016 inspecting team of Indian Nursing Council found that Supriyadidi Sule College of Nursing was closed on the date of inspection. It is also noticed that the distance of hospital from the institution is more than 30 kms. and accordingly a query was made by the Indian Nursing Council to the said college run by the petitioner-trust on 02.05.2016. Similarly communication was sent to the Principal of Shruti Nursing School imparting education in R.A.N.M. and R.G.N.M. courses. It was informed to Shruti Nursing School that in the same building Supriyadidi College of Nursing for B.Sc. (N) and P.B.Sc.(N) is conducting courses. It was also informed to Shruti Nursing School that students' attendance register of Supriyadidi Sule College of Nursing was not provided and that explanation as to why information for B.Sc. (N) and P.B.Sc.(N) program was not furnished.

4. Record shows that the petitioner-trust had furnished explanation to the queries raised to both colleges run by it. It is also seen that as this issue was not being decided by the Indian Nursing Council, the petitioner-trust had moved two independent petitions before this Court which are still subjudice. It appears

that abruptly on 28.10.2016 Indian Nursing Council had issued communication informing the State Government and the Maharashtra Nursing Council that in the wake of inspection of colleges run by the petitioner-trust, status of those colleges are "not permitted". It was also informed that students should not be admitted without approval of the Indian Nursing Council, in those colleges.

5. Upon being asked, the learned Counsel for the Indian Nursing Council is unable to make submission as to whether this impugned communication dated 28.10.2016 is the communication of withdrawal of recognition of colleges run by the petitioner-trust under section 14 of the Indian Nursing Council Act, 1947. Therefore, prima facie, it appears that the issue which arose because of the inspection of colleges run by the petitioner-trust is not yet decided, but the Indian Nursing Council does not want students to be admitted in these two colleges. Even otherwise section 14 of the Indian Nursing Council Act contemplates detailed procedure for withdrawal of recognition and the impugned communication does not show that the said procedure was followed by the Indian Nursing Council for withdraw of recognition of colleges run by the petitioner-trust.

6. It is seen that recognition of training institutions imparting education in nursing is required to be given under section 25 of the Maharashtra Nurses Act, 1966, by the Maharashtra Nursing Council. Similarly, affiliation is also required to be given by the Maharashtra Nursing Council as per provisions of section 26 of the said Act. Prima facie, it is seen that role of Indian Nursing Council is regarding regulating the nursing profession by setting up uniform standard in nursing courses. That apart, perusal of impugned orders goes to show that no reasonings are given by the Indian Nursing Council for restraining colleges run by the petitioner-trust from admitting students.

7. It is reported that today is the last date of admission to colleges. In this view of the matter, in the interest of justice, interim arrangement will have to be made for securing ends of justice and therefore the order :-

i. As a provisional arrangement, Shruti Nursing School and Supriyadidi Sule College of Nursing, run by the petitioner-trust, are permitted to admit students in their courses for this academic year. Admissions so effected shall be subject to result of these petitions.

ii. It is further directed that the petitioner-trust as well as these two colleges should publish the fact of pendency of these petitions on their official web-site with a further rider that students will be admitted in courses subject to result of these petitions and at the risk of students.

iii. The petitioner-trust and these two colleges run by the petitioner-trust shall obtain undertaking from each and every students admitted by it to the effect that in the event of failure of the petitioner-trust in these petitions, students admitted shall not claim any equity in the matter and they will forego their rights regarding the education and the training which they had undertaken, in view of interim orders passed by this Court in these two petitions.

iv. The petitioner-trust shall forward copies of such undertaking taken from each students to the Indian Nursing Council within a period of one month from completion of process of admissions.

8. Issue notice to respondents, returnable on 25.11.2016. Mr. Alok Sharma waives notice for respondent No.1. Mr.C.A. Jadhav waives notice for respondent No.2. Mr. K.M. Suryawanshi waives notice for respondent No.3 in Writ Petition No.11106 of 2016.

9. Parties to act on authenticated copy of this order.

[A.M. BADAR]
VACATION JUDGE

snk/2016/NOV16/wp11106.16